

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA

VS.

MICHAEL BEATTY

1:20-CR-209 CMH

ALEXANDRIA, VIRGINIA
MARCH 5, 2021

TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE CLAUDE M. HILTON
UNITED STATES DISTRICT JUDGE

Proceedings reported by stenotype, transcript produced by
Julie A. Goodwin.

A P P E A R A N C E S

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United States District Court

401 Courthouse Square

Eighth Floor

Alexandria, Virginia 22314

1 (MARCH 5, 2021, 9:28 A.M., OPEN COURT.)

2 THE COURTROOM DEPUTY: Criminal Action Number
3 2020-CR-209, *United States of America versus Michael Beatty*.

4 MS. MOORE: Good morning, Your Honor. Monika Moore on
5 behalf of the government.

6 THE COURT: Good morning.

7 MR. CARLIN: David Carlin on behalf of the defendant,
8 Your Honor. Good morning.

9 THE COURT: All right.

10 Counsel, have you and your client had an
11 opportunity to review this presentence report?

12 MR. CARLIN: We have, Your Honor.

13 THE COURT: Any corrections you wish to make to it?

14 MR. CARLIN: No, Your Honor.

15 THE COURT: Anything you want to say at this time?

16 MR. CARLIN: Yes, Your Honor, I would like to address
17 the Court.

18 THE COURT: All right. And you may remove that mask
19 if you want.

20 MR. CARLIN: Thank you.

21 Good morning, Your Honor. May it please the Court.
22 I would like to thank my local co-counsel, Joe King, for his
23 assistance over the past six months, and point out that Mike's
24 parents, Jim and Irene Beatty, and his partner, Sarah, are here
25 in the courtroom today.

1 Regarding our position on sentencing in this case,
2 Your Honor, let me emphasize the most relevant and persuasive
3 points in support of a noncustodial sentence of home detention
4 and probation with an allowance for Mr. Beatty to both work and
5 volunteer his time in the fight against the Coronavirus.

6 I'll note that not all the conspirators in this
7 matter have pled as Mr. Beatty has, and the government may
8 still require his testimony as he's agreed and committed to do
9 in this plea agreement.

10 I would like to begin by focusing on -- not on our
11 position on sentencing submitted on behalf of Mr. Beatty last
12 Friday, but instead reflect on the position on sentencing
13 submitted by the government. In it, and as expected, they
14 summarized the facts in the light most favorable to the
15 government's suggestion that Mr. Beatty should be incarcerated
16 as recommended within the guidelines, namely 30 months. They
17 focus on three general basic points when arguing the 30 months
18 is appropriate, and I'll address each individually and briefly.

19 The government begins by addressing the nature,
20 circumstance, and seriousness of the defense. While this is
21 perhaps the best of the government's arguments, even here they
22 admit that, quote, it is impossible to determine what
23 percentage of this money would not have been expended if the
24 co-conspirators were more focused on the most appropriate
25 medical treatments and less focused on their own profits. This

1 sentence is essentially true, but it cut -- cuts both ways. As
2 it is impossible to determine what percentage of money would
3 have been expended, it's also impossible to determine whether
4 the amount might, in fact, have been greater than that was
5 actually paid for the creams and various compounds in this
6 case.

7 There are extremely expensive medical treatments
8 for various ailments, as well as highly addictive oral pills
9 for which the cost to our country financially, culturally, and
10 personally for millions of people have been horrifically high.
11 And the compounds in this case, relatively expensive as they
12 were, were viable, medically prescribed, and dispensed
13 medicines to those potentially damaging alternatives.

14 The government does not dispute any of this, nor
15 does the government dispute that Mr. Beatty's actions in this
16 case took place more than six years ago.

17 The government next presents the argument that
18 the -- next presents the point regarding the defendant's
19 personal history and characteristics. And the government
20 begins by stating that Mr. Beatty has no known criminal
21 convictions, which strikes me as an odd way to phrase this
22 absolute. More accurately, he has no criminal convictions at
23 all, nor any history of criminality whatsoever.

24 The government notes that he, quote, is an
25 intelligent, capable individual who had the life experience to

1 make lawful choices, but did not elect to do so in this
2 instance.

3 Mr. Beatty readily concedes this point. And he's
4 repeatedly and sincerely expressed and demonstrated as sorrow
5 and remorse for his lack of good judgment.

6 However, because the government goes on in that
7 section to more or less take the position that because Mr.
8 Beatty is an otherwise good, intelligent, capable man and has
9 lived 52 of his 53 years in accord with the values of a good,
10 intelligent, capable man, that his significant but singular
11 failure in this case is cause for greater punishment. We
12 disagree wholly with that opinion and suggest the very
13 opposite, that a lifetime of goodwill as a determinant is
14 deserving of less, not more punishment.

15 The letters written by friends and colleagues
16 presented to the Court, friends, colleagues, his partner, and
17 his therapist provide the Court with heartfelt stories of
18 friendship, decency, his generosity and genuine concern for
19 others, along with their urging for leniency from this Court.
20 These seven letters submitted illustrate Mike's true personal
21 history and characteristics, and these descriptions of his past
22 best illustrate the most likely direction for his future.

23 The third and final argument of the government for
24 a 30-month sentence is to promote respect for the law and
25 afford adequate deterrence. In its position on sentencing, the

1 government includes a basic and true statement that, quote,
2 when doctors and pharmacists are motivated by their own profit
3 as opposed to the interest of their patients/customers,
4 significant patient harm could occur.

5 However, the government also directly states just
6 prior to this statement that there's no evidence that patient
7 harm resulted out of the actions of the defendants in this
8 case. It is not just to encourage and advocate for a harsher
9 sentence based on what could have taken place. Mr. Beatty's
10 sentence should be based on what actually occurred here.

11 By example, we do not punish those caught speeding
12 15 miles over the speed limit based on an accident which could
13 have occurred and harmed others, and nor should Mr. Beatty be
14 punished for what might have happened. Both he and all of us
15 are thankful as the government's investigation revealed that
16 there exists no evidence of any harm to any patient involved in
17 this case.

18 The compounds at issue were medically necessary and
19 benefitted, not harmed, the patients to which they were
20 dispensed. The issue in this case was never fraud or harm to
21 patients, but the crime of a pharmacist kicking back money to a
22 physician for the referral of prescriptions.

23 Pertaining to deterrence, the government states
24 that a 30-month sentence is, quote, necessary to send a message
25 to other potential fraudulent actors.

1 While the defense agrees that deterrence is
2 important, Michael Beatty is not the person to send this
3 message. He benefitted personally just \$7,370.64, or closer to
4 \$5300 when expenses are factored in. He was involved for
5 approximately one year. He was not a creator or a ringleader
6 of the conspiracy.

7 He cooperated and assisted the government almost
8 immediately. The events at issue concluded more than six and a
9 half years ago when he withdrew from the conspiracy. And he
10 has no criminal history whatsoever except for this matter
11 before this Court.

12 On the issue of deterrence, it should be mentioned
13 that Mike has contacted his local community college, CCBC, the
14 Community College of Baltimore County, and has begun the
15 approval process to teach a class to pharmacy technicians
16 regarding kickbacks and to potentially other illegal scams
17 within the pharmaceutical industry: Who and what to look for,
18 what forms they take, how they may be presented or described
19 as -- disguised as legitimate, how to recognize them, and how
20 to be a whistleblower, if or when one does see them.

21 As a deterrent, our argument is that Mr. Beatty's
22 teaching of such a class to hundreds of young pharmacy
23 technicians of potential future pharmacists would be an
24 infinitely greater deterrent than any period of incarceration
25 would project to other potential bad actors.

1 I would like to address Mr. Beatty's value to both
2 society generally and to his immediate community.

3 Coincidentally, perhaps at no time in his 53 years
4 than on this day right here, right now has Mike Beatty been of
5 greater value to society. The Coronavirus pandemic has created
6 a countrywide need for persons to assist in administering
7 vaccines and testing, both of which Mike has done every weekend
8 since the vaccines became available for distribution.

9 He's become a buddy to military veterans through
10 the Veterans Administration to specifically tend to and comfort
11 those who may have been directly affected by the financial
12 misappropriation in this case.

13 The idea of an individual having value to society
14 is an interesting one. In a sense, every contributing member
15 of society has value, but recent events have reinforced the
16 notion that for better or worse some members are deemed more
17 essential while others are deemed less. Whatever one may think
18 of these classifications, Michael Beatty is today more than
19 ever an essential and particularly beneficial member of our
20 society. The idea that there's greater value to Mr. Beatty
21 being in prison versus out of prison for the crime he committed
22 when the totality of the circumstances is taken into
23 consideration just doesn't make much sense.

24 With regard to our positioning on sentencing, I'll
25 briefly restate our -- our five main points. Mr. Beatty

1 cooperated immediately and fully with the government. He
2 committed to cooperation within 14 days of first contact by FBI
3 agents and began working with and informing the U.S. attorney
4 shortly thereafter.

5 Mr. Beatty had limited involvement with and
6 profiting from the illegal activity. As previously noted, Mike
7 personally benefitted just \$7,370 from this conspiracy. And
8 this fact should be considered by the Court as sentencing
9 guidelines are largely based on the amount of money at issue.

10 It's noteworthy that none of the payments for
11 compounds made while Mike owned the pharmacy were made through
12 TRICARE, but through private insurance companies. All of the
13 payments made to TRICARE occurred after Mike sold the pharmacy
14 at the direction of the new owners and without any financial
15 benefit to Mike. The acts constituting of the conspiracy and
16 Mike's involvement in it were proactively ended by Mike over
17 six and a half years ago.

18 From the inception of the conspiracy, Mike was
19 targeted by his co-conspirators. They identified and
20 approached him with the fully formed scheme, complete with
21 contracts to sign. And as noted in the PSR, Mike did not
22 exercise any leadership role in the conspiracy. For lack of a
23 better term, he was a highly skilled dupe. The conspiracy
24 began before Mike's involvement and continued after his
25 withdrawal from it.

1 Mr. Beatty is a father and accomplished pharmacist,
2 a respected member of his community, and poses no future risk
3 to society. Mike has no issue of -- excuse me -- history of
4 criminality whatsoever, either in the 45 years prior to the
5 initiation of this crime or the six and a half years since his
6 withdrawal. For decades he's held solemn the trust and
7 confidence of his patients, and he faces the real and
8 significant punishment of losing his career, as he's notified
9 the Maryland Board of Pharmacy of this offense. His pharmacist
10 license is scheduled for review in June.

11 Finally, the threat of COVID infection for Mike
12 must be taken into consideration. He has hypertension, high
13 cholesterol, and was recently diagnosed with coronary art --
14 excuse me -- coronary artery calcification.

15 As it happens, I heard just yesterday on the radio
16 that while the State of Texas is removing its mask mandate and
17 opening its businesses fully, they have had recent severe
18 outbreaks in two particular areas: In its nursing homes and in
19 its prison populations. Despite our steady progress as a
20 country, the pandemic, and in particular its reaching into the
21 prison system, should be taken into account.

22 In summation, there are compelling reasons and
23 arguments for a noncustodial sentence in this case, and the
24 government's position on sentencing serves to augment not the
25 government's recommendation of a 30-month term, but rather

1 includes numerous statements would strengthen and further
2 support the defense's argument and position for a period of
3 home incarceration.

4 For these reasons, it is respectfully submitted
5 that a period of home incarceration is warranted with the
6 allowance of an exception for employment and volunteering.

7 Thank you, Your Honor.

8 THE COURT: Does the government have anything to add?

9 MS. MOORE: Very briefly, Your Honor.

10 Your Honor, the government realizes that the Court
11 has reviewed the government's papers, and Mr. Carlin has also
12 summarized a bit of the government's position. But I do think
13 it's important to note that Mr. Beatty was a very critical and
14 important part of this scheme. It could not have existed and
15 gone on with the Fallston Pharmacy without him, and that is
16 signified by the fact that the pharmacy was getting 50 percent
17 of the profits from these drugs based on his assistance with
18 the scheme, and the conspiracy benefitted from his direct
19 knowledge of how you bill these to TRICARE and other healthcare
20 benefit programs.

21 In addition, Mr. Beatty was a licensed pharmacist.
22 He was aware of the rules involving kickbacks and still elected
23 to participate in this scheme. And while the government does
24 not have evidence of actual loss to the TRICARE program, this
25 is very serious conduct. Patients could have been harmed, and

1 thus, the government does recommend a sentence at the low end
2 of the guidelines range.

3 Thank you.

4 THE COURT: All right. Mr. Beatty, would you come to
5 the podium.

6 (DEFENDANT COMPLIES.)

7 THE COURT: Is there anything you would like to say at
8 this time?

9 THE DEFENDANT: Yes, I do, sir.

10 THE COURT: You can remove that mask.

11 THE DEFENDANT: Honorable Judge Hilton, thank you for
12 allowing me to address you and your esteemed court.

13 First and foremost, I want to wholeheartedly
14 apologize to the federal government and its TRICARE
15 beneficiaries, the individuals harmed by my offense. I also
16 want to apologize to my family for not only my actions in this
17 case, but for the possibility that there may be a period where
18 I will not be there for them. The thought of that has given me
19 incredible anxiety and heartbreak.

20 I have devoted 25 years of my life to the pharmacy
21 profession and have always been proud of the work I have done
22 and the positive impact I have had, and continue to have, on my
23 patients and the community. What I am not proud of is the
24 crime I committed that led me to stand before you today. I am
25 deeply ashamed of my behavior. I let down my profession, my

1 community, my friends, and most importantly my family, all
2 which have been negatively affected by my poor decisions.

3 I have carried the weight of this for a very long
4 time. Standing before you today has brought me great relief,
5 despite whatever the outcome may be. There have been many
6 positive developments in my life over the last couple of years.

7 I have completely turned around my issues with
8 depression and alcohol addiction by seeking the help of a
9 therapist and removing myself from situations that cause me to
10 be depressed. I have found my partner, Sarah, to share life
11 with who brings love and positivity.

12 My son, Ethan, has accepted Sarah and has made
13 great strides after the difficulties that my divorce caused
14 him. I am also now the father figure to Sarah's seven-year-old
15 son, Cal. My family depends on me for support and comfort, and
16 it pains me greatly to know that this is now their reality as
17 well.

18 Since I pled guilty to the kickback conspiracy, I
19 have done everything in my power to show you and the Court that
20 I intend on righting my wrong. My actions caused great harm to
21 the TRICARE benefit and to the many military men and women who
22 rely on that benefit, people who I have the utmost respect for.

23 I have volunteered my time to the Veterans
24 Administration to try and directly help the community harmed by
25 my offense. I have also volunteered through the Carroll County

1 Health Department and have been deployed to administer the
2 Coronavirus vaccine every weekend when I am not working.

3 It is a strange and difficult time we live in due
4 to the pandemic, and I am blessed enough to have the skills and
5 ability to improve the health and lives of the people in my
6 community through my work and volunteer efforts. I would like
7 to be able to continue to use these skills to help others
8 during this difficult time and in the future.

9 My hope is that my attorneys and I have provided
10 you with a valid argument that demonstrates to you that I am a
11 good person, a person of strong moral and ethical character. I
12 made an incredibly poor decision out of clouded judgment and
13 greed for which I will forever regret. I humbly accept
14 whatever punishment you feel is warranted to correct my wrongs,
15 and I am hopeful for the chance to work hard to be a positive
16 example in the community and to inspire others.

17 Again, thank you for the opportunity to address
18 this court and may God bless America.

19 THE COURT: Well, Mr. Beatty, I find the guideline
20 factors here properly assessed at a range of 30 to 37 months,
21 and because of your financial condition the imposition of any
22 fine or cost would not be warranted. And considering the
23 factors, as I must under Section 3553, the nature of this
24 offense and your involvement, the level of involvement in this
25 whole scheme, as well as your prior record and your age, I find

1 that a sentence somewhat below the guideline range would be
2 appropriate.

3 It will be the sentence of the Court that you be
4 committed to the custody of the Attorney General to serve a
5 term of 12 months and one day, a two-year period of supervised
6 release, pay a special assessment fine of \$100. A condition of
7 your supervised release are those standard conditions that have
8 been set forth here by your probation officer.

9 I will allow you to voluntarily surrender yourself
10 when space is available.

11 THE DEFENDANT: Thank you, sir.

12 (PROCEEDINGS CONCLUDED AT 9:48 A.M.)

13 -oOo-

14

15 UNITED STATES DISTRICT COURT)
16 EASTERN DISTRICT OF VIRGINIA)

17 I, JULIE A. GOODWIN, Official Court Reporter for
18 the United States District Court, Eastern District of Virginia,
19 do hereby certify that the foregoing is a correct transcript
20 from the record of proceedings in the above matter, to the best
21 of my ability.

22 I further certify that I am neither counsel for,
23 related to, nor employed by any of the parties to the action in
24 which this proceeding was taken, and further that I am not
25 financially nor otherwise interested in the outcome of the
action.

Certified to by me this 17TH day of MARCH, 2021.

/s/
JULIE A. GOODWIN, RPR
Official U.S. Court Reporter
401 Courthouse Square
Alexandria, Virginia 22314

Julie A. Goodwin, CSR, RPR

3/5/21

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